

**In the Supreme Court of the United States**

**OCTOBER TERM, 1970**

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**No. 600**

**ALCIDES PEREZ, PETITIONER**

**v.**

**UNITED STATES OF AMERICA**

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**ON PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR  
THE SECOND CIRCUIT**

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**MEMORANDUM FOR THE UNITED STATES  
IN OPPOSITION**

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After a jury trial in the United States District Court for the Eastern District of New York, petitioner was convicted on all five counts of an indictment charging the unlawful use of extortionate means in collecting and attempting to collect a debt from one Alexis Miranda, in violation of 18 U.S.C. 891 and 894. On May 23, 1969, he was sentenced to concurrent terms of eighteen months' imprisonment. The court of appeals affirmed, one judge dissenting (Pet. App. A, 1a-23a).

Petitioner contends, as he did below, that the statute under which he was convicted, which punishes loansharking activities without requiring a showing in any individual case of an effect of such activities on interstate commerce, is an unconstitutional exercise of Congress' Commerce and Bankruptcy Clause powers. He argues that the formal congressional findings on which the statute is based—which reflect the linkage of loansharking with organized crime and the deleterious effect of extortionate credit transactions on interstate commerce and bankruptcy proceedings—are suspect. These contentions are answered in the thorough opinion of the majority below,<sup>1</sup> on which we rely here (Pet. App. A, 1a-19a). See also *United States v. Biancofiori*, 422 F.2d 584 (C.A. 7), certiorari denied, 398 U.S. 942.<sup>2</sup>

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<sup>1</sup> The dissenting opinion takes the view, as to the Commerce Clause aspect, that the statute goes too far since it requires no showing in a particular case that the extension of credit was linked to organized crime. As the majority points out, however, Congress is entitled to view the entire class of transactions in terms of their effect on interstate commerce (Pet. App. A, 10a-11a). Congress could reasonably conclude from its various studies and hearings (Pet. App. A, 13a-16a) that the typical extortionate credit transaction is linked to interstate organized crime and thus that the entire class of such transactions is a subject of proper federal control.

<sup>2</sup> While the majority in the instant case found it unnecessary to discuss the validity of the statute under the Bankruptcy Clause since it was sustainable under the Commerce Clause, the opinion in *Biancofiori* upholds the statute under both clauses.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,  
*Solicitor General*

SEPTEMBER, 1970.